

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FRANCHISE GROUP, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-12480 (LSS)
(Jointly Administered)

Objection Deadline: At the Hearing
Hearing Date: April 3, 2025 at 10:00 a.m.
Eastern

Re: Docket No. 1044, 1099, 1206, 1210

**MOTION OF AD HOC GROUP OF FREEDOM
LENDERS FOR LEAVE TO FILE A SUR-REPLY**

The Ad Hoc Group of Freedom Lenders (the “**Freedom Lender Group**”),² by and through its undersigned counsel, hereby submits this motion (the “**Motion**”) for entry of an order, substantially in the form attached to this Motion as **Exhibit A** (the “**Proposed Order**”),

¹ The debtors in these Chapter 11 Cases (the “**Debtors**”), along with the last four digits of their U.S. federal tax identification numbers, to the extent applicable, are Franchise Group, Inc. (1876), Freedom VCM Holdings, LLC (1225), Freedom VCM Interco Holdings, Inc. (2436), B. Riley Receivables II, LLC (4066), Freedom VCM Receivables, Inc. (0028), Freedom VCM Interco, Inc. (3661), Freedom VCM, Inc. (3091), Franchise Group New Holdco, LLC (0444), American Freight FFO, LLC (5743), Franchise Group Acquisition TM, LLC (3068), Franchise Group Intermediate Holdco, LLC (1587), Franchise Group Intermediate L, LLC (9486), Franchise Group Newco Intermediate AF, LLC (8288), American Freight Group, LLC (2066), American Freight Holdings, LLC (8271), American Freight, LLC (5940), American Freight Management Company, LLC (1215), Franchise Group Intermediate S, LLC (5408), Franchise Group Newco S, LLC (1814), American Freight Franchising, LLC (1353), Home and Appliance Outlet, LLC (n/a), American Freight Outlet Stores, LLC (9573), American Freight Franchisor, LLC (2123), Franchise Group Intermediate B, LLC (7836), Buddy’s Newco, LLC (5404), Buddy’s Franchising and Licensing, LLC (9968), Franchise Group Intermediate V, LLC (5958), Franchise Group Newco V, LLC (9746), Franchise Group Intermediate BHF, LLC (8260); Franchise Group Newco BHF, LLC (4123); Valor Acquisition, LLC (3490), Vitamin Shoppe Industries LLC (3785), Vitamin Shoppe Global, LLC (1168), Vitamin Shoppe Mariner, LLC (6298), Vitamin Shoppe Procurement Services, LLC (8021), Vitamin Shoppe Franchising, LLC (8271), Vitamin Shoppe Florida, LLC (6590), Betancourt Sports Nutrition, LLC (0470), Franchise Group Intermediate PSP, LLC (5965), Franchise Group Newco PSP, LLC (2323), PSP Midco, LLC (6507), Pet Supplies “Plus”, LLC (5852), PSP Group, LLC (5944), PSP Service Newco, LLC (6414), WNW Franchising, LLC (9398), WNW Stores, LLC (n/a), PSP Stores, LLC (9049), PSP Franchising, LLC (4978), PSP Subco, LLC (6489), PSP Distribution, LLC (5242), Franchise Group Intermediate SL, LLC (2695), Franchise Group Newco SL, LLC (7697), and Educate, Inc. (5722). The Debtors’ headquarters is located at 109 Innovation Court, Suite J, Delaware, Ohio 43015.

² The Freedom Lender Group is comprised of the entities named in the *Verified Statement of the Ad Hoc Group of Freedom Lenders Pursuant to Rule 2019 of the Federal Rules of Bankruptcy Procedure* [Docket No. 229], as it may be amended and supplemented from time to time.

for leave under section 105(a) of title 11 of the United State Code (the “**Bankruptcy Code**”) and rule 7007-2(b)(ii) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”) to file a sur-reply, a copy of which is attached to this Motion as **Exhibit B** (the “**Sur-Reply**”) to the Debtors’ reply [Docket No. 1206] (the “**Reply**”) and the OpCo 1L Group’s statement in support [Docket No. 1210] (the “**Statement**”) to the *Motion of Debtors for Entry of an Order (I) Extending the Debtors’ Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances Thereof Pursuant to Section 1121 of the Bankruptcy Code and (II) Granting Related Relief* [Docket No. 1044] (the “**Exclusivity Extension Motion**”). In support of this Motion, the Freedom Lender Group respectfully states as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding under 28 U.S.C. § 157 (b).
2. Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.
3. The Freedom Lender Group consents to entry of a final order on this Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

RELEVANT BACKGROUND

4. On February 28, 2025, the Debtors filed the Exclusivity Extension Motion.
5. On March 14, 2025, the Freedom Lender Group filed its objection to the Exclusivity Extension Motion [Docket No. 1099] (the “**Objection**”).

6. On March 26, 2025, Michael J. Wartell issued his report detailing the results of his Freedom HoldCo Independent Investigation (the “**Wartell Report**”).

7. On March 27, 2025, the Debtors filed the *Plan Supplement for the Sixth Amended Joint Chapter 11 Plan of Franchise Group, Inc. and Its Debtor Affiliates* [Docket No. 1182-1] (the “**Plan Supplement**”). The Plan Supplement disclosed that the Wartell Report concluded that certain of the Debtors’ officers and directors should not be released under the Debtors’ proposed plan. *Id.* at Ex. J.

8. On March 31, 2025, the Debtors filed their Reply and the OpCo 1L Group filed their Statement.

RELIEF REQUESTED

9. By this Motion, the Freedom Lender Group seeks entry of an order, substantially in the form of the Proposed Order, under section 105(a) of the Bankruptcy Code and Local Rule 7007-2(b)(ii), granting the Freedom Lender Group leave to file the Sur-Reply.

BASIS FOR RELIEF

10. Local Rule 7007-2(b)(ii) provides that “[t]he party filing the opening brief shall not reserve material for the reply brief which should have been included in a full and fair opening brief.” Although this is not a situation where information available at the time of the opening brief was not addressed therein and saved for a reply, the basis for this rule applies here, as a party should be allowed to address in its brief all relevant matters and information, including those facts that arise after its filing. To wit, “[P]ermission for leave to file a sur-reply is a matter ‘committed to the District Court’s sound discretion.’” *Levey v. Brownstone Inv. Grp., LLC*, 590 F. App’x 132, 137 (3d Cir. 2014).

11. Further, the equitable powers of the Court allow it to issue any order that “is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

12. Here, the Wartell Report and the Plan Supplement change the landscape of these chapter 11 cases and provide facts and information not available to the Freedom Lender Group at the time the Objection was due.

13. In light of the foregoing, the Freedom Lender Group respectfully request an opportunity to incorporate these new facts and information in a sur-reply. The Freedom Lender Group believes that its brief Sur-Reply will aid the Court in its consideration of the relevant issues.

Dated: April 1, 2025

Respectfully submitted,

FARNAN LLP

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